

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED GODSEY,

Plaintiff,

CIVIL ACTION NO. 07-CV-13242-DT

vs.

DISTRICT JUDGE DAVID M. LAWSON

CORRECTIONAL MEDICAL,
SERVICES., et al.,
Defendants.

MAGISTRATE JUDGE MONA K. MAJZOUB

_____/

OPINION AND ORDER DENYING PLAINTIFF'S MOTION
FOR ORDER COMPELLING PRODUCTION OF MEDICAL RECORDS
AND
DENYING PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME

This matter comes before the Court on Plaintiff's Motion for Order Compelling Production filed on September 7, 2007 (docket no. 10) and his Motion for Enlargement of Time filed on the same day (docket no. 11). Defendants have not responded to either motion. All pretrial matters have been referred to the undersigned pursuant to 28 U.S.C. § 636(b). (Docket no. 12). The Court dispenses with oral argument. E.D. Mich. LR 7.1(e). These motions are now ready for ruling.

This is a prisoner civil rights action alleging deliberate indifference to a serious medical need. (Docket no. 1). Plaintiff asks that Defendants be compelled to provide him copies of his medical records in the possession of the Correctional Medical Services. However, Plaintiff fails to allege or show that he has made a proper discovery request of Defendants pursuant to Fed. R. Civ. P. 34 for these documents. A motion to compel the production of the documents pursuant to Fed. R. Civ. P. 37 is therefore premature. Plaintiff should first make a proper request under Rule 34. If the Defendant custodian of the records fails to respond or respond properly in Plaintiff's view, he may file a motion to compel. Plaintiff may also be seeking records from a separate, non-defendant hospital. To the extent

that Defendants do not possess or control copies of such documents, a discovery motion served on them would not be proper. Plaintiff must proceed by another method such as by Fed. R. Civ. P. 45.

Plaintiff also has filed a Motion for Enlargement of Time to respond to any dispositive motion that Defendants may file. Because there is no dispositive motion now pending, this motion is premature. Plaintiff's Motion will be denied without prejudice to it being made when there is such a pending motion.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Order Compelling Production (docket no. 10) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Enlargement of Time (docket no. 11) is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 16, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Fred Godsey and Counsel of Record on this date.

Dated: October 16, 2007

s/ Lisa C. Bartlett
Courtroom Deputy